

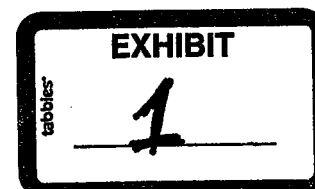
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THERESA VALENCIA

STATE OF NEW MEXICO
THIRTEENTH JUDICIAL DISTRICT
COUNTY OF SANDOVAL

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D-1329-CV-2013-00581

Esequiel Espinoza, Leandro and Molly Garcia,
Peter H. Cantrup, Steve Montoya, Randy Sandoval,
Judi Anne Romero, Patsy Manzanares,
Sam and Regina Garcia, David Vasquez, Darla Vigil,
Bobbi Jo Hays, Sonya Garcia- Martinez,
Joe R. Archuleta, Marlene Lee, Lee and Irene Romero,
Corelia Serrano, Rubel Martinez, Frances Garcia,
Angela Espinoza Madigan, Theodoro Roybal,
Albert Moreland Jr., Gustavo Roybal,
Rey and Beverly Ortiz, Ivan Archuleta,
Louis and Sadie Martinez, Maria C. Portillo,
Gilbert and Elena Baca, Ruben L. Ramirez,
Gregorio and Judy A. Garcia, Jeff D. Romero,
Dennis Montoya, Leonard E. Garcia, Loren Pacheco,
Rosie Chacon, Cindy Chavez, Pedro and Maria T. Roybal,
Dennis Naranjo, Donna K. Abeyta, Cathy Sanchez,
Arsenio Maestas, Josie Vasquez, Raymond Gallegos Sr.,
Edward and Alvera Edmunds, Ruth and Norman Gurule,
Shauna Wooters, Isaac Chavez, Gilbert and Jane Lopez,
Carlos Serrano, Ray G. Morales, Lawrence Naranjo,
Gustavo Roybal, Edward and Lynn Chavez,
Pamela S. Garcia, Melissa Gallegos, Carol E. Esquibel,
Estevan and Eppie Martinez, Melanie Ortiz, Gloria Martinez,
Ramon and Cordelia Casias, Frankie and Carmen Lopez,
Josina Trujillo, Dorothy Dixon, Joe E. Borrego, Ron Lopez,
Jeanette Martinez, Birsing and Birkaur Khalsa,
Gurulal and Varnjeet Khalsa, Larry and Myrna Romero,
Carmen Noble, Thomas and Sheila Vigil, Letisha Martinez,
Jessica Maestas, Arsenio and Bernadette Salazar,
Erica Martinez and Daniel Lovato, Raul and Hilda Galvan,
Ralph and Julie Ann Martinez, Elaine Branch, Ella Lujan,
Willie and Priscilla Salazar, Ed E. Herrera, Joaquin Valdez,
Bernadette Salazar, Dora B. Pacheco, Jesus and Maria Chavira,
Catherine Sanchez, Crystal Martinez, Doris and Danny Pacheco,
Joan S. Brown, Ricky E. Martinez, Johnny DeVargas,
David L Lujan, Evelyn Naranjo, Norbert Garcia, Casey Quintana,
Don and Florence Rodriguez, Mark and Esther Trujillo,
Abedon and Florinda Trujillo, Kristal Munoz, Lorraine Dominguez,
Christen Coburn, Bernardo and Karrie Archuleta, Arlene Encinias,
Benjamin Ortega, Gerald and Dolores Gallegos,
Lizandro and Maybel G. Ocana, Sadie L. Martinez,
Gene and Jeannette Aldaz, Alicia and Jon Naranjo, Ruby Maes,



Eliseo and Adonilia Romero, Grace Gallegos, Mary M. Garcia,
Sharon Herrera, Debra and Martin Rodriguez,
Gene and Jeannette Aldaz, Jeffrey Salazar,
Jimmy and Kimberly Herrera, Mario and Theresa M. Romero,
Raymond Ortega, Robert and Dina Duran, Sylvia Salazar,
Donna and Raul Vigil, Rose Montoya, Kathleen Maestas,
Susan Mondragon, Roxanne Martinez, Viola Romero
Fatima Martinez, John-Alex Salazar, Sandra Martinez,
Benito and Prescilla Martinez, Rubel Martinez,
Nora and Manuel Marrufo, Rachel Marquez, Brenda Gurule,
Petrita Garduno, Jason Noble, Genoveva Vigil,
Donna Talache Mtz, Leon and Ellena Martinez,
Donna and Pablo M. Negreros, Katie Ortiz,
Katherine A. Gonzalez, Rudy and Nestora Rodarte,
Kathy Baca, Alma Delia Morales, Grace L. Karcher,
Margie Vigil, Raymond Borrego, Archie Bustos,
Johnny Marquez, Mike Schreiner, Richard Quintana,
Andrenette Boylan, Eloy and Helen Romero,
Keith Carleton and Hollie Nylund, Mary A. Martinez,
Lydia Wheeler, The Estate of Steve Sanchez, Orlando T. Martinez,
Cleo Jacquez, Lorenzo and Victoria Martinez, Connie Martinez,
Juan J. Roybal, Connie Vigil, Michael and Gloria Naranjo,
Elena Montoya, Joel Baldonado, Jose Luis Martinez,
Patrick Montoya, LeRoy and Lita M. Ortiz, Rebecca Martinez,
Charlotte Duran, Rudy and Pamela Valdez,
Clarence and Aurora Vigil, Benicio and Ruby Valdez,
Wilfredo A. Vigil, Allen and Michelle Roybal,
Israel and Yolanda Archuleta, Sonya P. Valdez,
Timothy and Martha P. Trujillo, Richard and Angie Valdez,
Rose A. Martinez, Jerry Johnson, Cristina Sandoval,
Johnny G. Chacon, Danny & Andrea Wheeler,
Socorro Trujillo, Virginia Mares, Billy and Diana Baum,
Berlina Ramirez, Estevan and Mayo S. Martinez,
Oscar and Angela Payan, Eric Lopez, Rose Ann Maestas,
Sammy and Marcella Garduno, Emily Martinez,
Josephine Valdez, Margot Padilla,
and John Adams, 1-500, inclusive,

Plaintiffs,

vs.

Case No: _____

ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANIES, AMERICAN RELIABLE INSURANCE COMPANY, FARMERS INSURANCE EXCHANGE, FOREMOST INSURANCE COMPANY, LIBERTY MUTUAL GROUP, METLIFE AUTO AND HOME INSURANCE COMPANY, NATIONAL CASUALTY COMPANY, SAFECO INSURANCE COMPANY OF AMERICA, STATE FARM FIRE AND CASUALTY COMPANY, HARTFORD PROPERTY AND CASUALTY INSURANCE COMPANY, TRAVELERS HOME AND MARINE INSURANCE COMPANY, JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC, and JOHN DOES 1-50, inclusive,

Defendants.

**COMPLAINT FOR HOMEOWNER'S INSURANCE BENEFITS,
INSURANCE BAD FAITH, BREACH OF CONTRACT, VIOLATION OF
THE NEW MEXICO UNFAIR INSURANCE PRACTICES ACT,
VIOLATION OF THE NEW MEXICO UNFAIR TRADE PRACTICES ACT
AGAINST DEFENDANT INSURERS AND NEGLIGENCE, NEGLIGENCE
PER SE, BREACH OF THIRD PARTY BENEFICIARY CONTRACT,
NUISANCE AND TRESPASS AGAINST JEMEZ MOUNTAINS
ELECTRICAL COOPERATIVE, INC.**

COME NOW all Plaintiffs, by and through their attorneys of record, BAUMAN, DOW & LEÓN, P.C. (Mark C. Dow, Alberto A. León and Brian G. Grayson), and for their Complaint for Homeowner's Insurance Benefits, Insurance Bad Faith, Breach of Contract, Violation of the New Mexico Unfair Insurance Practices Act, and Violation of the New Mexico Unfair Trade Practices Act against ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANIES, AMERICAN RELIABLE INSURANCE COMPANY, FARMERS INSURANCE EXCHANGE, FOREMOST INSURANCE COMPANY, LIBERTY MUTUAL GROUP, METLIFE AUTO AND HOME INSURANCE COMPANY, NATIONAL CASUALTY COMPANY, SAFECO INSURANCE COMPANY OF AMERICA, STATE FARM FIRE AND CASUALTY COMPANY,

HARTFORD PROPERTY AND CASUALTY INSURANCE COMPANY, TRAVELERS HOME AND MARINE INSURANCE COMPANY (“Defendant Insurers”), and Breach of Third Party Beneficiary Contract, Nuisance, Trespass, Negligence and Negligence *Per Se* against JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC, (“JMEC”), state as follows:

PARTIES AND JURISDICTION

1. Plaintiffs are, and were at all times relevant herein, residents of the State of New Mexico.

2. John Adams 1-500 are additional Plaintiffs that are also residents of the State of New Mexico whose identities are unknown at this time but are expected to assert claims in this litigation.

3. Upon information and belief, all Defendant insurance companies are foreign insurance companies authorized to do business in New Mexico and provide homeowner’s insurance coverage to residents of the State of New Mexico, including the Plaintiffs. (Hereafter “Defendant Insurers”).

4. Defendant Jemez Mountains Electric Cooperative, Inc., (“JMEC”) is a New Mexico corporation with its principal corporate office in Cuba, Sandoval County, New Mexico.

5. The true names and capacities of Defendants John Does 1-50 are unknown to Plaintiffs at this time but upon information and belief, are agents and/or employees of the other named Defendants. The Complaint will be amended as their identities are ascertained.

6. Venue and jurisdiction are proper in this Court.

PLAINTIFFS AND THEIR INSURERS

7. Plaintiffs incorporate the allegations contained in the preceding paragraphs as if fully set out herein.

8. At all times relevant, Plaintiffs, individually, owned homeowner's insurance policies with Defendant insurers that provided coverage for losses resulting from fire, including property damage, personal injury, displacement, and other damages, to be proven at trial.

9. ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY insures the following Plaintiff Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Tommy and Martina Padilla	916680969
Esequiel Espinoza	916765332
Leandro and Molly Garcia	038887118
Peter H. Cantrup	036920130
Steve Montoya	036602508
Randy Sandoval	944891138
Judi Anne Romero	929352600
Patsy Manzanares	936312482
Sam and Regina Garcia	0 36 722591
David Vasquez	000191717941125
Kevin and Darla Vigil	938889705
Peter H. Cantrup	916822079
Bobbi Jo Hays	986681606
Sonya Garcia-Martinez	916341210
Joe R. Archuleta	938235065
Marlene Lee and David Santillan	986635751
Lee and Irene Romero	000000938666229
Corelia Serrano	936586174
Rubel Martinez	038676090
Frances Garcia	936654252
Angela Espinoza Madigan	929526616
Theodoro Roybal	038678634
Albert Moreland Jr.	036897791
Gustavo Roybal	638724164
Rey and Beverly Ortiz	9866870812
Ivan Archuleta	0367495280
Louis and Sadie Martinez	929660375
Maria C. Portillo	816022825 07/09
Gilbert and Elena Baca	936302853
Ruben L. Ramirez	038521915
Gregorio and Judy A. Garcia	036894513
Jeff D. Romero	036462797
Dennis Montoya	929441001
Leonard E. Garcia	638726244

Loren Pacheco	93804453709
Rosie Chacon	81626822412/06
Cindy Chavez	936714348
Pedro and Maria T. Roybal	936-40271908127
Dennis Naranjo	936617622
Donna K. Abeyta	038672981
Cathy Sanchez	9 86 569180 09/11
Peter H. Cantrup	916274841
Arsenio Maestas	044 077 144
Peter H. Cantrup	036918483
Josie Vasquez	038634651
Raymond Gallegos Sr.	944072670
Edward and Alvera Edmunds	036508441
Ruth and Norman Gurule	936692024 03/04
Shauna Wooters	98664840912/17
Isaac Chavez	016986357
Gilbert and Jane Lopez	036506458
Peter H. Cantrup	929859517
Carlos Serrano	916639740
Ray G. Morales	038299802
Lawrence Naranjo	0386756790215
Gustavo Roybal	93844402804/27
Edward and Lynn Chavez	986095766
Pamela S. Garcia	916-842-027
Angela Espinoza Madigan	944422071
Peter H. Cantrup	036918484
Melissa Gallegos	944-510-193
Carol E. Esquibel	0916947884
Estevan and Eppie Martinez	036603485
Peter H. Cantrup	944986500
Melanie Ortiz	929743329 06/15
Gloria Martinez	936149088
Ramon R. and Cordelia Casias	036693351
Frankie and Carmen Lopez	936018483
Josina Trujillo	044-495-709
Dorothy Dixon	936308557
Joe E. Borrego	044752329
Ron Lopez	986366740 04/28

10. AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANIES

(ANPAC) insures the following Plaintiff Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Jeanette Martinez	30HU675789

Birsing and Birkaur Khalsa	30H27414A1
Gurulal and Varnjeet Khalsa	30HU521778
Larry and Myrna Romero	30H20773E7
Carmen Noble	30-D-12580L-7

11. AMERICAN RELIABLE INSURANCE COMPANY insures the following

Plaintiff Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Letisha Martinez	PRF06293908
Thomas and Sheila Vigil	PRF038809-09
Jessica Maestas	PRF09579104
Arsenio and Bernadette Salazar	PRF07732407
Erica Martinez and Daniel Lovato	i4600436302
Raul and Hilda Galvan	PRF07712806
Ralph and Julie Ann Martinez	DEL03302910
Elaine Branch	PRF077335
Ella Lujan	PRF05421407
Willie and Priscilla Salazar	PRF04494409
Ed E. Herrera	PRF09303706
Joaquin Valdez	I4600513002
Bernadette Salazar	PRF04898308
Dora B. Pacheco	PRF091289
Jesus and Maria Chavira	PRF08501106
Catherine Sanchez	PRF11526703
Crystal Martinez	PRF11262604
Doris and Danny Pacheco	PRF07539207
Ralph R. and Julie Anne Martinez	14600650001
Joan S. Brown	DEL06260305
Ricky E. Martinez	i3600126102

12. FARMERS INSURANCE EXCHANGE insures the following Plaintiff

Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Johnny De Vargas	935164176
David L. Lujan	935503979
Evelyn Naranjo	933600714
Norbert Garcia	948849967
Don and Florence Rodriguez	945145834
Mark and Esther Trujillo	948828361
Casey Quintana	939268975

Abedon and Florinda Trujillo	909477203
Kristal Munoz	93541-58-14
Lorraine Dominguez	929894034
Christen Coburn	925747555
Bernardo and Karrie Archuleta	914106055
Arlene Encinias	921176746
Benjamin Ortega	940077977
Gerald and Dolores Gallegos	927355192
Lizandro and Maybel G. Ocana	941786411
Sadie L. Martinez	92088-22-93
Gene and Jeannette Aldaz	93924-74-11
Norbert Garcia	929894022
Alicia and Jon Naranjo	936662576
Ruby Maes	103-0687920892-11
Eliseo and Adonilia Romero	91369-87-49
Grace Gallegos	920897224
Mary M. Garcia	941094147
Sharon Herrera	917444791
Norbert Garcia	929893978
Norbert Garcia	948849233
Norbert Garcia	929894017
Norbert Garcia	929893979
Debra and Martin Rodriguez	92663-71-81

13. FOREMOST INSURANCE COMPANY insures the following Plaintiff

Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Jeffery Salazar	103068532144211
Gene and Jeannette Aldaz	103-0685982242-11
Jimmy and Kimberly Herrera	103-0687894270-11
Raymond Gallegos Sr.	001820423213
Mario B. and Theresa M. Romero	103-0687096060-11
Raymond Ortega	103-0687376130-11
Robert and Dina Duran	103-0687405191-11
Sylvia Salazar	104-0639543321-10
Donna and Raul Vigil	103-0687015173-11
Rose Montoya	1030685655655
Kathleen Maestas	0647531695
Susan Mondragon	103068623223411
Roxanne Martinez	0684889962
Viola Romero	107066317852611
Fatima Martinez	103-0684069632-11
John-Alex Salazar	104-0683439411-10

Benito and Priscilla Martinez	103-0686738091-11
Sandra Martinez	103-0687177024-11
Rubel Martinez	4440019095855
Nora and Manuel Marrufo	103-0684048002-11
Rachel Marquez	103-0686511836-11
Brenda Gurule	103-0687229326-11
Petrita Garduno	103-0684546236-11
Jason Noble	104-0652043910-11
Genoveva Vigil	107067955982311
Donna Talache Mtz	103-068-791-691-311
Leon and Ellena Martinez	103-0685088456-11
Donna and Pablo M. Negreros	1030684055632
Katie Ortiz	103068394034211
Katherine A. Gonzalez	103-067444503-11
Rudy and Nestora Rodarte	103-0687428206-11
Kathy Baca	1030685641294
Alma Delia Morales	103-0686933962-11
Grace L. Karcher	0686258775
Margie Vigil	103-0685603645-12
Raymond Borrego	104-0639969853-09

14. LIBERTY MUTUAL GROUP, under the following policy numbers:

<u>Plaintiff</u>	<u>Policy Number</u>
Archie Bustos	H372913870194019
Johnny Marquez	H37-291-313646-4098
Mike Schreiner	H37-298-399026-4010

15. METLIFE AUTO AND HOME INSURANCE COMPANY insures the following

Plaintiff Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Richard Quintana	6382275091
Andrenette Boylan	0020525791
Eloy and Helen Romero	2771123200
Eloy and Helen Romero	774323650
Keith Carleton and Hollie Nylund	2110858890
Mary A. Martinez	7593401131
Mary A. Martinez	7593401130

16. NATIONAL CASUALTY COMPANY insures the following Plaintiff

Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Lydia Wheeler	DFO0234104
The Estate of Steve Sanchez	DF00224819
Orlando T. Martinez	DFO0232419
Cleo & Richard (deceased) Jacquez	DF00227727
Lorenzo and Victoria Martinez	DFO0227078
Connie Martinez	DFO0166163
Juan J. Roybal	DFO0228747
Connie Vigil	DFO0226006

17. SAFECO INSURANCE COMPANY OF AMERICA insures the following

Plaintiff Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Michael and Gloria Naranjo	OY6642097
Elena Montoya	OY6425020
Joel Baldonado	OY6644853
Jose Luis Martinez	OY6763213
Patrick Montoya	OR191805
LeRoy and Lita M. Ortiz	OY6794533
Rebecca Martinez	OY6787065
Charlotte Duran	OY6892655
Rudy and Pamela Valdez	DDW10522830

18. STATE FARM FIRE AND CASUALTY COMPANY insures the following

Plaintiff Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Clerence and Aurora Vigil	31-B0-4978-9
Benicio and Ruby Valdez	317387184
Wilfredo A. Vigil	31-80-6371-9
Allen and Michelle Roybal	31B719413
Israel and Yolanda Archuleta	31BDF715-3
Peter H. Cantrup	91BCV3023
Sonya P. Valdez	31BDF0362
Timothy D. and Martha P. Trujillo	31B532763
Richard and Angie Valdez	31-BA-H437-8

Rose A. Martinez	31BZ84425
Jerry Johnson	31-BB-T468-0

19. HARTFORD PROPERTY AND CASUALTY INSURANCE COMPANY

insures the following Plaintiff Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Cristina Sandoval	55RBD440557
Johnny G. Chacon	02RBB357814CC
Danny and Andrea Wheeler	34RBA823897
Socorro Trujillo	55RBB504191
Virginia Mares	55RBB580878
Billy and Diana Baum	34RB154262CC
Berlina Ramirez	55RBA830040

20. TRAVELERS HOME AND MARINE INSURANCE COMPANY insures the following Plaintiff Homeowners:

<u>Plaintiff</u>	<u>Policy Number</u>
Estevan F. and Mayo S. Martinez	9847454186331
Raymond Gallegos Sr.	9810553886331
Oscar and Angela Payan	9766157326331
Eric Lopez	9843363216331
Rose Ann Maestas	977463080633
Sammy and Marcella Garduno	957461766
Emily Martinez	9835162236331
Josephine Valdez	0402866946339
Margot Padilla	984616036331

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

21. Plaintiffs incorporate the allegations contained in the preceding paragraphs as if fully set out herein.

22. On or about June 26, 2011, a fire started in the Santa Fe National Forest and subsequently burned more than 150,000 acres. This fire is commonly referred to as the "Las Conchas Fire." The fire was caused by a tree falling on a power line and not by any fault of the

Plaintiffs. After five days, the Las Conchas Fire became the largest wildfire in New Mexico history at the time.

23. At all times relevant, JMEC operated its electrical distribution system on an easement or right of way through United States Forest Service property in the Santa Fe National Forest under a special use permit. The United States Forest Service special use permit stated the conditions under which JMEC was allowed to operate its electrical distribution system on Forest Service land.

24. At all times relevant, the United States Forest Service special use permit required JMEC to identify and abate hazardous conditions, to take all reasonable precautions to prevent forest fires, to clear the right of way, and to remove all trees which were leaning toward the transmission lines on or adjacent to the right of way, and to observe other fire precautions as may be required.

25. There were at the time of the Las Conchas Fire specific permits between JMEC and the U.S. Forest Service requiring JMEC and its agents and subcontractors to maintain the power line easement and keep it safe from forest fires.

26. Plaintiffs form a class of persons intended to be protected by said U.S. Forest Service contracts, rules, and regulations designed to protect the class of Plaintiffs from dangerous forest fires.

27. Plaintiffs are the intended beneficiaries and/or third party beneficiaries of said U.S. Forest Service contracts, rules, and regulations, which were intended to protect the class of Plaintiffs from dangerous forest fires.

28. JMEC is responsible for proper maintenance of the power lines. Based on the findings of several state and federal investigations, the Las Conchas Fire was caused by JMEC's

failure to properly maintain trees in the area of the power lines, causing them to break and igniting a fire.

29. JMEC is directly and vicariously liable for the negligent acts and omissions of its employees and agents.

30. As a direct result of the Las Conchas fire, Plaintiffs suffered losses to their respective homes and properties, including but not limited to damage from smoke, soot, and ash, and loss of use damages.

31. As a direct result of the Las Conchas fire, many of the Plaintiffs were forced to evacuate their homes and businesses and incur expenses related to the forced and/or ordered evacuation.

32. The properties damaged by the Las Conchas fire and which are the subject of this action are all located in the State of New Mexico.

33. Plaintiffs' damages and losses suffered from the Las Conchas fire are in excess of the deductible allowance under their respective policies with the Defendant insurers.

34. Beginning in 2011 and continuing through the present, Plaintiffs have attempted in good faith to settle with Defendant insurers any claim they have under their insurance policies for smoke, soot, ash, and related damages to their properties. These attempts have included, but have not been limited to, Plaintiffs providing Defendant insurers with a settlement demand setting forth the bases for their demands, and with information and documents relating to and supporting their losses. Despite these attempts on the part of the Plaintiffs, Defendant insurers have failed and/or refused to respond to, honor, and/or settle Plaintiffs' claims, and continue to refuse, respond to, honor, and/or settle Plaintiffs' claims in a reasonable and timely manner.

35. The Defendant Insurers have joined in and initiated a lawsuit with thirty (30) insurance companies, styled *Travelers Casualty Insurance Company of America, et. al., v. Jemez Mountains Electric Cooperative, Inc.*, D-1329-CV-2012-01665 (Thirteenth Judicial District Court in Sandoval County), pursuing “a subrogation action seeking redress for property damage, business interruption and other related losses that resulted from the Las Conchas fire that started on or about June 26, 2011.”

36. Upon information and belief, each of the Defendant Insurers’ policies of insurance provide specified and/or express coverage for fire to include resulting smoke damage, property damage, personal injury, business interruption, residential displacement, and other related losses that are covered. Certain Defendant Insurers have refused to timely investigate and pay covered claims, yet they seek reimbursement for subrogated claims.

COUNT I – BREACH OF CONTRACT AGAINST DEFENDANT INSURERS

37. Plaintiffs incorporate the allegations contained in the preceding paragraphs as if fully set out herein.

38. Defendant insurers expressly and/or impliedly represented they would act in good faith and thoroughly and fairly investigate, process, and pay any claims Plaintiffs may make on their policies of insurance with Defendant.

39. The representations set forth above were material to the formation of the contracts between Plaintiffs and Defendant insurers.

40. Defendant insurers are in breach of the insurance contracts and, as a result, Plaintiffs have incurred monetary damages and Defendant insurers are liable for all such damages suffered by Plaintiffs, in an amount to be proven at trial.

41. Defendant insurers' conduct as described above was willful, wanton, malicious, reckless, in bad faith and/or grossly negligent, thus warranting an award of punitive damages in an amount to be determined by the trier of fact and sufficient to punish the Defendants for their conduct and to deter others from similar conduct.

COUNT II – INSURANCE BAD FAITH AGAINST DEFENDANT INSURERS

42. Plaintiffs incorporate the allegations contained in the preceding paragraphs as if fully set out herein.

43. With respect to Plaintiffs' claims for insurance benefits for losses caused by fire, to include other resulting causes such as but not limited to property damage resulting in smoke, soot, and ash damage, personal injury, loss of use, and displacement damage, Defendant insurers have either denied coverage without any explanation to Plaintiffs as to the specific policy provision supporting the denial of coverage, relied on inapplicable exclusionary language in the policies of insurance, and/or refused to pay the fair and reasonable amounts due and covered under the policies in a reasonable and timely manner.

44. Defendant insurers' failure and/or refusal to timely adjust and pay the claims as set out above are frivolous, unfounded, not supported by law or fact, and improperly places the rights and interests of the Defendant insurers before those of the Plaintiffs. Defendant insurers have otherwise acted in bad faith in their dealings with Plaintiffs.

45. The conduct described above is ongoing.

46. As a direct and proximate result of Defendant insurers' bad faith as set out above, Plaintiffs have sustained monetary damages and will continue to sustain monetary damages, all in an amount to be determined at trial.

47. Defendant insurers' conduct as described above was willful, wanton, malicious, reckless, in bad faith and/or grossly negligent, thus warranting an award of punitive damages in an amount to be determined by the trier of fact and sufficient to punish the Defendant for its conduct and to deter others from similar conduct.

**COUNT III – VIOLATION OF THE NEW MEXICO UNFAIR INSURANCE
PRACTICES ACT AGAINST DEFENDANT INSURERS**

48. Plaintiffs incorporate the allegations contained in the preceding paragraphs as if fully set out herein.

49. Defendant insurers have violated the statutory duties imposed about it by the New Mexico Insurance Code, and more particularly, NMSA §59A-16-20, and has engaged in acts and practices prohibited by said statutory provisions.

50. Plaintiffs are members of the class of general public for whose benefit the aforementioned statutes were enacted.

51. As a direct and proximate result of Defendant insurers' failure to promptly, thoroughly, and fairly investigate and negotiate Plaintiffs' claims for benefits and act accordingly, Plaintiffs have suffered monetary damages and will continue to suffer monetary damages in an amount to be proven at trial.

52. Defendant insurers' conduct as described above was willful, wanton, malicious, reckless, in bad faith and/or grossly negligent, thus warranting an award of punitive damages in an amount to be determined by the trier of fact and sufficient to punish the Defendant insurer for its conduct and to deter others from similar conduct.

53. Plaintiffs have had to obtain the services of attorneys to pursue this matter and therefore are entitled to an award of attorney's fees and reasonable costs pursuant to NMSA §59A-16-30 and NMSA §39-2-1.

**COUNT IV – VIOLATION OF THE NEW MEXICO UNFAIR PRACTICES ACT
AGAINST DEFENDANT INSURERS**

54. Plaintiffs incorporate the allegations contained in the preceding paragraphs as if fully set out herein.

55. At all times relevant, Defendant insurers were engaged in “trade” or “commerce” as those terms are used in the New Mexico Unfair Trade Practices Act, NMSA §§ 57-12-1 through 57-12-22 (“Unfair Practices Act”), at all times relevant to the allegations of this complaint.

56. Defendant insurers have committed unfair or deceptive trade practices as that term is defined in NMSA §57-12-2(C).

57. Further, Defendant insurers have committed unconscionable trade practices as that term is defined in NMSA §57-12-2(D).

58. As a direct and natural consequence of Defendant insurers’ violation of the Unfair Trade Practices Act, Plaintiffs have been damaged in an amount to be proven at trial.

59. Defendant insurers’ violation of the Unfair Practices Act, Plaintiff suffered damages and is entitled to damages, treble damages, attorneys’ fees and costs pursuant to NMSA § 57-12-22.

**COUNT V – NEGLIGENCE AGAINST DEFENDANT JEMEZ MOUNTAINS
ELECTRIC COOPERATIVE**

60. Plaintiffs incorporate the allegations contained in the preceding paragraphs as if fully set out herein.

61. Defendant Jemez Mountains Electric Cooperative had a duty to properly maintain both its power lines and the areas surrounding the power lines in order to prevent fires from occurring.

62. Defendant JMEC breached its duty to properly maintain its powers lines and the surrounding areas, and thus was negligent.

63. Defendant JMEC's negligence caused the Las Conchas fire, and it was foreseeable that such negligence could lead to wildfires and widespread damages to a countless number of homes, including those of the Plaintiffs.

64. As a result of Defendant JMEC's negligence, Plaintiffs have been damaged in an amount to be proven at trial.

**COUNT VI – NEGLIGENCE *PER SE* AGAINST DEFENDANT JEMEZ MOUNTAINS
ELECTRIC COOPERATIVE**

65. Plaintiffs incorporate the allegations contained in the preceding paragraphs as if fully set out herein.

66. At the time of the above-referenced events, there were in force and effect certain state and federal statutes and state and federal regulations that were violated by Defendant JMEC.

67. These statutes and regulations were enacted for the protection of the class of persons which include Plaintiffs. Defendants JMEC's violation of these statutes and regulations constitutes negligence *per se*.

68. As a result of Defendant JMEC's negligence *per se*, Plaintiffs have been damaged in an amount to be proven at trial.

**COUNT VII – BREACH OF THIRD PARTY BENEFICIARY CONTRACT BY
DEFENDANT JEMEZ MOUNTAINS ELECTRIC COOPERATIVE**

69. Plaintiffs incorporate the allegations contained in the preceding paragraphs as if fully set out herein.

70. At all times relevant, the United States Forest Service special use permit required JMEC to identify and abate hazardous conditions, to take all reasonable precautions to prevent

forest fires, to clear the right of way, and to remove all trees which were leaning toward the transmission lines on or adjacent to the right of way, and to observe other fire precautions as may be required.

71. There were at the time of the fire specific permits between JMEC and the U.S. Forest Service requiring JMEC and its agents and subcontractors to maintain the power line easement and keep it safe from forest fires.

72. Plaintiffs form a class of persons intended to be protected by said U.S. Forest Service contracts, rules, and regulations designed to protect the class of Plaintiffs from dangerous forest fires.

73. Plaintiffs are the intended beneficiaries and/or third party beneficiaries of said U.S. Forest Service contracts, rules, and regulations, which were intended to protect the class of Plaintiffs from dangerous forest fires.

74. Defendant JMEC breached their contractual duties to the third party beneficiary Plaintiffs.

75. As a result of Defendant JMEC's breach, Plaintiffs have suffered damages in an amount to be proven at trial.

**COUNT VIII - NUISANCE AND TRESPASS AGAINST DEFENDANT JEMEZ
MOUNTAINS ELECTRIC COOPERATIVE**

76. Plaintiffs incorporate the allegations contained in the preceding paragraphs as if fully set out herein.

77. Plaintiffs were the owners, tenants, and/or lawful occupants of real property damaged by the Las Conchas Fire.

78. JMEC's acts and omissions caused the Las Conchas Fire, therefore creating a condition that prevented the free use of and enjoyment of Plaintiffs' property, which caused a nuisance and constitute a trespass upon the Plaintiffs' person and property.

79. The Las Conchas Fire physically invaded the Plaintiffs' property, thus constituting a trespass.

80. A reasonable person would be reasonably disturbed by the nuisance created by the Las Conchas Fire, and the negligence and negligence *per se* of JMEC.

81. As a result of JMEC's actions and omissions, which led to the nuisance and trespass, Plaintiffs were damaged in an amount to be proven at trial.

82. As a result of the trespass, Plaintiffs are entitled to damages in an amount equal to double the amount of the appraised value of the damage of the property injured or destroyed pursuant to NMSA § 30-14-1.1.

WHEREFORE, Plaintiffs pray for judgment against Defendants and in favor of Plaintiffs for compensatory damages and actual damages, in an amount to be proven at trial, punitive damages, attorneys' fees and costs, pre-judgment and post-judgment interest, and such other and further relief as the Court deems just and proper.

Respectfully Submitted,

BAUMAN, DOW & LEÓN, P.C.

By s/ Mark C. Dow

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THERESA VALENCIA

STATE OF NEW MEXICO
THIRTEENTH JUDICIAL DISTRICT
COUNTY OF SANDOVAL

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D-1329-CV-2013-00581

Esequiel Espinoza, Leandro and Molly Garcia,
Peter H. Cantrup, Steve Montoya, Randy Sandoval,
Judi Anne Romero, Patsy Manzanares,
Sam and Regina Garcia, David Vasquez, Darla Vigil,
Bobbi Jo Hays, Sonya Garcia- Martinez,
Joe R. Archuleta, Marlene Lee, Lee and Irene Romero,
Corelia Serrano, Rubel Martinez, Frances Garcia,
Angela Espinoza Madigan, Theodoro Roybal,
Albert Moreland Jr., Gustavo Roybal,
Rey and Beverly Ortiz, Ivan Archuleta,
Louis and Sadie Martinez, Maria C. Portillo,
Gilbert and Elena Baca, Ruben L. Ramirez,
Gregorio and Judy A. Garcia, Jeff D. Romero,
Dennis Montoya, Leonard E. Garcia, Loren Pacheco,
Rosie Chacon, Cindy Chavez, Pedro and Maria T. Roybal,
Dennis Naranjo, Donna K. Abeyta, Cathy Sanchez,
Arsenio Maestas, Josie Vasquez, Raymond Gallegos Sr.,
Edward and Alvera Edmunds, Ruth and Norman Gurule,
Shauna Wooters, Isaac Chavez, Gilbert and Jane Lopez,
Carlos Serrano, Ray G. Morales, Lawrence Naranjo,
Gustavo Roybal, Edward and Lynn Chavez,
Pamela S. Garcia, Melissa Gallegos, Carol E. Esquibel,
Estevan and Eppie Martinez, Melanie Ortiz, Gloria Martinez,
Ramon and Cordelia Casias, Frankie and Carmen Lopez,
Josina Trujillo, Dorothy Dixon, Joe E. Borrego, Ron Lopez,
Jeanette Martinez, Birsing and Birkaur Khalsa,
Gurulal and Varnjeet Khalsa, Larry and Myrna Romero,
Carmen Noble, Thomas and Sheila Vigil, Letisha Martinez,
Jessica Maestas, Arsenio and Bernadette Salazar,
Erica Martinez and Daniel Lovato, Raul and Hilda Galvan,
Ralph and Julie Ann Martinez, Elaine Branch, Ella Lujan,
Willie and Priscilla Salazar, Ed E. Herrera, Joaquin Valdez,
Bernadette Salazar, Dora B. Pacheco, Jesus and Maria Chavira,
Catherine Sanchez, Crystal Martinez, Doris and Danny Pacheco,
Joan S. Brown, Ricky E. Martinez, Johnny DeVargas,
David L Lujan, Evelyn Naranjo, Norbert Garcia, Casey Quintana,
Don and Florence Rodriguez, Mark and Esther Trujillo,
Abedon and Florinda Trujillo, Kristal Munoz, Lorraine Dominguez,
Christen Coburn, Bernardo and Karrie Archuleta, Arlene Encinias,
Benjamin Ortega, Gerald and Dolores Gallegos,
Lizandro and Maybel G. Ocana, Sadie L. Martinez,
Gene and Jeannette Aldaz, Alicia and Jon Naranjo, Ruby Maes,

Eliseo and Adonilia Romero, Grace Gallegos, Mary M. Garcia,
Sharon Herrera, Debra and Martin Rodriguez,
Gene and Jeannette Aldaz, Jeffrey Salazar,
Jimmy and Kimberly Herrera, Mario and Theresa M. Romero,
Raymond Ortega, Robert and Dina Duran, Sylvia Salazar,
Donna and Raul Vigil, Rose Montoya, Kathleen Maestas,
Susan Mondragon, Roxanne Martinez, Viola Romero
Fatima Martinez, John-Alex Salazar, Sandra Martinez,
Benito and Prescilla Martinez, Rubel Martinez,
Nora and Manuel Marrufo, Rachel Marquez, Brenda Gurule,
Petrita Garduno, Jason Noble, Genoveva Vigil,
Donna Talache Mtz, Leon and Ellena Martinez,
Donna and Pablo M. Negreros, Katie Ortiz,
Katherine A. Gonzalez, Rudy and Nestora Rodarte,
Kathy Baca, Alma Delia Morales, Grace L. Karcher,
Margie Vigil, Raymond Borrego, Archie Bustos,
Johnny Marquez, Mike Schreiner, Richard Quintana,
Andrenette Boylan, Eloy and Helen Romero,
Keith Carleton and Hollie Nylund, Mary A. Martinez,
Lydia Wheeler, The Estate of Steve Sanchez, Orlando T. Martinez,
Cleo Jacquez, Lorenzo and Victoria Martinez, Connie Martinez,
Juan J. Roybal, Connie Vigil, Michael and Gloria Naranjo,
Elena Montoya, Joel Baldonado, Jose Luis Martinez,
Patrick Montoya, LeRoy and Lita M. Ortiz, Rebecca Martinez,
Charlotte Duran, Rudy and Pamela Valdez,
Levi and Ruby Valdez, Dean and Michelle Sandoval,
Michael and Amy Manning, Clerence and Aurora Vigil,
Benicio and Ruby Valdez, Wilfredo A. Vigil,
Allen and Michelle Roybal, Israel and Yolanda Archuleta,
Sonya P. Valdez, Timothy and Martha P. Trujillo,
Richard and Angie Valdez, Rose A. Martinez, Jerry Johnson,
Cristina Sandoval, Johnny G. Chacon, Danny & Andrea Wheeler,
Socorro Trujillo, Virginia Mares, Billy and Diana Baum,
Berlina Ramirez, Estevan and Mayo S. Martinez,
Oscar and Angela Payan, Eric Lopez, Rose Ann Maestas,
Sammy and Marcella Garduno, Emily Martinez,
Josephine Valdez, Margot Padilla,
and John Adams, 1-200, inclusive,

Plaintiffs,

vs.

Case No: _____

ALLSTATE PROPERTY AND CASUALTY INSURANCE
COMPANY, AMERICAN NATIONAL PROPERTY AND
CASUALTY COMPANIES, AMERICAN RELIABLE,
FARMERS INSURANCE EXCHANGE, FOREMOST
INSURANCE COMPANY, LIBERTY MUTUAL GROUP,
METLIFE AUTO AND HOME INSURANCE COMPANY,
NATIONAL CASUALTY COMPANY, SAFECO
INSURANCE COMPANY OF AMERICA, STATE FARM
FIRE AND CASUALTY COMPANY, HARTFORD
PROPERTY AND CASUALTY INSURANCE COMPANY,
TRAVELERS HOME AND MARINE INSURANCE COMPANY,
JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.,
and JOHN DOES 1-50, inclusive,

Defendants.

JURY DEMAND

COME NOW all Plaintiffs, by and through their attorneys of record, BAUMAN, DOW &
LEÓN, P.C. (Mark C. Dow, Alberto A. León and Brian G. Grayson), and demands trial by jury
consisting of six (6) members.

Respectfully Submitted,

BAUMAN, DOW & LEÓN, P.C.

By s/ Mark C. Dow

Mark C. Dow
Alberto A. León
Brian G. Grayson
P.O. Box 30684
Albuquerque, NM 87190
(505) 883-3191
Attorneys for Plaintiffs

I HEREBY CERTIFY that a copy of
the foregoing document will be served
concurrently with the Summons and
Complaint upon the Defendants.

s/ Mark C. Dow

Mark C. Dow, Esq.